

EXHIBIT 33

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY MANGANIELLO,

Plaintiff,

CIVIL ACTION No.: 07 CV 3644 (HB)

- Against-

THE CITY OF NEW YORK, Et. Al.

Defendants

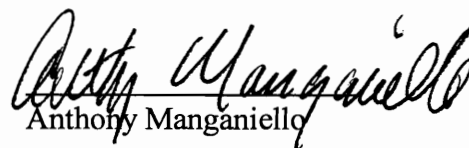
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AFFIDAVIT OF PLAINTIFF

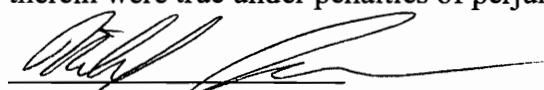
Anthony Manganiello, being duly sworn deposes and says:

1. I am the Plaintiff in the above captioned matter, as such I am fully familiar with the facts and circumstances of the instant matter.
2. I offer this affidavit in opposition to defendants' motion for summary judgment.
3. I have never met Terrance Alston in person. I never had a conversation with Mr. Alston and I certainly never asked him to sell me a gun nor did I ever ask him to kill anyone.
4. I have reviewed the DD5 concerning Mr. Alston's statements and Mr. Alston's Grand Jury testimony. The DD5 is not true and all of Mr. Alston's grand jury testimony was a lie.
5. I never had any conversation in a pizza shop in which I asked either directly or indirectly a porter if they knew someone who was selling a gun. Mr. Tartone's testimony before the grand jury and at trial was not true and was a fabrication.
6. On February 12, 2001, I did not see Walter Cobb at all prior to responding to the call that Albert Acosta was down. I have reviewed Walter Cobb's testimony at the grand jury and I was present when he testified at trial. Mr. Cobb's testimony before the grand jury and at trial that I walked out of the basement and made a statement to him was not true.

7. Upon entering the basement of 1700 Metropolitan Ave., after receiving the call the Mr. Acosta was down, I never said to Miriam Nieves I don't want to go in there, that's my partner or that I want to go in there. I have reviewed Mirian Nieves' grand jury testimony and I was present when Ms. Nieves testified at trial. Ms. Nieves' testimony at the grand jury and at trial that I made a statement to her prior to entering the basement was a lie.
8. I never asked Michael Booth to sell me a gun. I have reviewed the DD5 concerning Mr. Booth and his handwritten statement and the contents therein are not true. I was present when Michael Booth testified at trial and his testimony was a lie.
9. I have never met Mark Damon and I certainly never bought a gun from him.
10. Following a jury trial I was found not guilty by a jury of all charges relating to the homicide of Albert Acosta.
11. I have read the foregoing affidavit and I affirm under penalties of perjury pursuant to 28 USC §1746 that the matters stated herein are true.


Anthony Manganiello

On the 9th day of May, 2008, before me personally appeared Anthony Manganiello, to be known and who did execute the within affidavit and did swear that the statements contained therein were true under penalties of perjury.


Notary Public

NOTARY PUBLIC
MICHAEL JOSEPH
NO. 02JO6040452
WESTCHESTER COUNTY
EXPIRES 7 / 24 / 2010